

## **How will APHIS Enforce the Retail Pet Store Rule?**

**USDA APHIS Animal Care**  
**December 5, 2013**



# Overview

- **Recap**
- **How will APHIS Enforce the Retail Pet Store Rule?**
- **The Most Commonly Asked Questions**
- **Resources**
- **Question and Answer Session**

# Retail Pet Store Final Rule

*The new definition of a retail pet store:*

Means a place of business or residence at which the seller, buyer, and the animal available for sale are physically present so that every buyer may personally observe the animal available for sale prior to purchasing and/or taking custody of that animal after purchase and where only (certain animals are sold or offered for sale, at retail, for use as pets.)

# Retail Pet Store Final Rule

Retailers who sell their pet animals to customers in face-to-face transactions do not have to obtain an AWA license because their animals are subject to such public oversight.

# Retail Pet Store Final Rule

A facility that has four or fewer breeding female dogs, cats, and/or small exotic or wild mammals, would not be subject to federal regulation as long as the animals offered for sale were born and raised on the dealer's premises.

# Retail Pet Store Final Rule

In addition, the final rule exempts from regulation anyone who sells or negotiates the sale or purchase of any animal, except wild or exotic animals, dogs, or cats, and who derives no more than \$500 gross income from the sale of such animals. (e.g., rabbits).

# Retail Pet Store Final Rule

“Rescue” groups that participate in “face-to-face” transactions such as off-site adoptions are subject to public oversight. They do not need to obtain a license for that reason.

Some “rescue” groups may need to be licensed if they have any animal transactions for use as a pet which are not “face-to-face.”

# Retail Pet Store Final Rule

The activity taking place, or the “business model” of the group, is what determines whether or not a facility will be regulated.



# Retail Pet Store Final Rule

The final rules went into effect Nov. 18, 2013, and we are encouraging all breeders who think they may need a license to request and complete a licensing application.

It may take some time before a pre-licensing inspection is conducted at your facility once you have submitted your application.

# Retail Pet Store Final Rule

All breeders who proactively complete applications for licensure may continue to conduct regulated activities while waiting for our inspectors to conduct the pre-licensing process.

# Retail Pet Store Final Rule

During an inspection, the Inspector's focus is on the health of the animals and any direct hazards to their health or safety, particularly in areas not dedicated to housing animals. For example, in the living room, they would be looking at the health of the animals and potential hazards such as access to electric wires, ingestible hazards, or significant waste disposal issues.

# Retail Pet Store Final Rule

If animals, medications, or animal feed are kept in the home, those areas of the home need to be made available by the licensee or applicant for inspection by the Inspector.

Inspectors will not intrude into areas of the home which are not critical to evaluating the conditions for regulated animals.

How will APHIS Enforce the Retail Pet Store Rule?

## **ENFORCEMENT**

# Retail Pet Store Final Rule

Animal Care enforces the AWA primarily through the use of inspections.

# Retail Pet Store Final Rule

At the conclusion of the inspection the Inspector conducts an exit briefing with the licensee to review report findings, discuss noncompliant items and the corrective dates for them, answer questions, provide copy of the inspection report (may send report by certified mail or email), and obtain signature of the licensee.

# Retail Pet Store Final Rule

The exit briefing is the opportunity for the licensee to discuss noncompliant items, ask about ways to correct deficiencies, discuss disagreements about report findings, learn about AWA requirements, and ask any other pertinent questions.



# Retail Pet Store Final Rule

If a licensee disagrees with the Inspector's findings, he or she may:

Discuss their concerns with the Inspector  
and/or

Submit written appeal to the Regional Office  
within 21 days

# Retail Pet Store Final Rule

If the licensee has not taken corrective measures to come in compliance with the AWA by the corrective date, Animal Care will increase efforts to achieve compliance. This may involve more frequent inspections, a letter of information, or in serious cases a request that APHIS' Investigative and Enforcement Services (IES) initiate a formal investigation, which includes gathering documentary and photographic evidence, interviewing witnesses, and other actions.

# Retail Pet Store Final Rule

After the investigation is completed, APHIS evaluates the evidence and determines whether to take one of a number of enforcement actions to address the alleged violations.

# Retail Pet Store Final Rule

Under the Freedom of Information Act (FOIA) facility inspection reports are accessible to the public.

Inspection reports are available on the USDA APHIS website.

<http://acissearch.aphis.usda.gov/LPASearch/faces/Warning.jspx>

How will APHIS Enforce the Retail Pet Store Rule?

## **THE MOST COMMONLY ASKED QUESTIONS**

# Retail Pet Store Final Rule

**Q.** Will photographs be collected during the pre-licensing process?

**A.** Our inspectors will no longer take photographs of non-compliant items found during *pre-license* inspections. Reason being, during routine inspections of already-licensed facilities, those licensees are already expected to understand and abide by the standards and regulations, so we take photographs as a visual way to document their non-compliant items. *Pre-license* inspections, in contrast, are intended to provide an educational opportunity for applicants to learn about the standards they must meet in order to obtain a license.

# Retail Pet Store Final Rule

**Q.** How will information be documented on the inspection reports?

**A.** Inspection reports will now include the following information: 1) the citation for the most pertinent subsection of the regulations (as opposed to the full section); 2) a clear, detailed description of the non-compliant item; 3) an explanation of why the item is being cited as non-compliant and/or the impact the item is having on the animal(s); and 4) a deadline for when the non-compliant item needs to be corrected along with a general description of how the licensee/registrant can correct the item.

# Retail Pet Store Final Rule

**Q.** Will the Animal Care Inspection manual that is currently available online at the APHIS site be updated with the latest changes?

**A.** Yes, we recently provided our Inspectors updated procedural guidance on the following topics: documenting attempted inspections; taking photographs during pre-license inspections; conducting inspections inside a residence; and documenting citations on inspection reports. More specific information can be found in the updated Inspection Guide, posted on our website:

[http://www.aphis.usda.gov/animal\\_welfare/downloads/Inspection%20Guide%20-%20November%202013.pdf](http://www.aphis.usda.gov/animal_welfare/downloads/Inspection%20Guide%20-%20November%202013.pdf).



How will APHIS Enforce the Retail Pet Store Rule?

## **RESOURCES QUESTION AND ANSWER SESSION**

# Retail Pet Store Final Rule

For more information on the Rule including links to FAQs, the docket itself, and the economic analysis:

**[www.aphis.usda.gov/animal\\_welfare/retail\\_pet\\_stores.shtml](http://www.aphis.usda.gov/animal_welfare/retail_pet_stores.shtml)**

Additional Animal Welfare Act information can be accessed from the APHIS home page.

**[www.aphis.usda.gov](http://www.aphis.usda.gov)**